



City of Seattle

Department of Planning and Development

D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 3012036
Applicant Name: Ester Katsaros
Address of Proposal: 11928 Lakeside Place NE

SUMMARY OF PROPOSED ACTION

Land Use Application to allow a 2-story, 3,265 sq. ft. single family residence in an environmentally critical area.

The following approvals are required:

ECA Variance – to allow disturbance within a steep slope area and steep slope buffer, and a reduced front yard. Section 25.09.180.E

SEPA Determination: ☒ Exempt ☐ DNS ☐ MDNS ☐ EIS
☐ DNS with conditions
☐ DNS involving non-exempt grading or demolition
Or involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site Description

The site is located on Lakeside Pl. NE, on a hillside above Lake Washington and the Burke-Gilman Trail in northeast Seattle. The subject property has a lot area of 7,540 sq. ft. and is zoned Single Family (SF 7200) as is the surrounding property. The property is also located within the Urban Residential (UR) shoreline environment. The property slopes down from the west (Lakeside Place NE) to the east (Burke-Gilman Trail) and contains the following environmentally critical areas: potential slide and steep slope.

Description of Proposal

The applicant proposes to construct a two-story, 3,265 sq. ft. single family residence. The residence will be located on the west side of the property at the top of the slope. An eighteen-foot wide driveway bridge for vehicular and pedestrian access to the site is proposed to be located in the Lakeside Pl. NE right-of-way. (All work in the street right-of-way requires approval and a street use permit by Seattle Department of Transportation.) The project includes re-vegetation of the steep slope area with native plant species.

The proposed single family residence is located within the steep slope and steep slope buffers and landslide prone environmentally critical areas (ECAs). Disturbance of steep slope ECAs, ECA buffers and a front yard reduction all require variance approval.

Although a portion of the property is located within 200 feet of the shoreline, no work is proposed in that area. Therefore, a Shoreline Substantial Development Permit is not required.

Public Comment

Notice of the proposal was issued on March 31, 2011. Five comment letters were received.

Environmentally Critical Areas Regulations

General Requirements and standards are described in Section 25.09.060 of the ECA ordinance (SMC Chapter 25.09). SMC Section 25.09.180 provides specific standards for all development on steep slopes and steep slope buffers on existing lots, including the general requirement that development shall be avoided in these areas whenever possible. Trees and vegetation standards are found at SMC 25.09.320.

ANALYSIS – STEEP SLOPE AREA VARIANCE

The applicant has requested variances from three requirements of the environmentally critical areas ordinance: ECA Variance for a reduced front yard, ECA Variance to disturb a steep slope buffer, and ECA Variance to disturb a steep slope.

Pursuant to SMC 25.09.180.E the Director may allow disturbance of the steep slope area buffer and authorize limited development in the steep slope area and buffer only when all of the facts and conditions stated in the numbered paragraphs below are found to exist:

SMC 25.09.180.E. Steep Slope Area Variance.

1. The Director may reduce the steep slope area buffer and may authorize limited intrusion into the steep slope area and steep slope buffer to the extent allowed in subsection E2 only when the applicant qualifies for a variance by demonstrating that:

- a. the lot where the steep slope or steep slope buffer is located was in existence before October 31, 1992; and***

The applicant submitted copies of tax records for the property dating back to 1982. In addition, the subject property is an historically platted lot. This criterion is met.

- b. the proposed development otherwise meets the criteria for granting a variance under Section 25.09.280 B, except that reducing the front or rear yard or setbacks will not both mitigate the hardship and maintain the full steep slope area buffer.***

As shown by the topographic survey and site plan, almost the entire property is designated as a steep slope ECA, except for a narrow wedge shaped area in the upper middle of the site. The area of the site that is not designated as steep slope is located within the steep slope buffer. Strict application of the steep slope standards would require avoidance of both the steep slope area and the steep slope buffer, preventing development of the site. The applicant is requesting a reduced front yard (required = 10 feet, proposed = 5 feet), however, reduction of the front does not result in access and a building footprint outside of the steep slope and steep slope buffers, so it does not fully mitigate the hardship created by the strict application of the steep slope standards, nor does it maintain the full steep slope buffer.

Criteria and responses for granting a variance found in SMC 25.09.280.B are discussed below:

SMC 25.09.280.B. Yard and setback reduction and variance to preserve ECA buffers and riparian corridor management areas.

The Director may approve a yard or setback reduction greater than five feet (5') in order to maintain the full width of the riparian management area, wetland buffer or steep-slope area buffer through an environmentally critical areas yard or setback reduction variance when the following facts and conditions exist:

- 1. The lot has been in existence as a legal building site prior to October 31, 1992.***

See response to SMC 25.09.180.E.1.a, above.

- 2. Because of the location of the subject property in or abutting an environmentally critical area or areas and the size and extent of any required environmentally critical areas buffer, the strict application of the applicable yard or setback requirements of Title 23 would cause unnecessary hardship; and***

See response to SMC 25.09.180.E.1.b, above.

- 3. The requested variance does not go beyond the minimum to stay out of the full width of the riparian management area or required buffer and to afford relief; and***

This criterion is not applicable since there is no riparian management area or required (riparian) buffer on-site.

- 4. The granting of the variance will not be injurious to safety or to the property or improvements in the zone or vicinity in which the property is located; and***

The applicant has provided a geotechnical report ("Earth Solutions NW, LLC, dated March 4, 2011) which was reviewed by DPD's geotechnical engineer and approved on September 2, 2011.

Drainage from the new development will be directed to bio-retention planters, as shown on the plans. Over-flow from the planters will be pumped up to the west culvert of Lakeside Pl. NE, to prevent any further disturbance of the steep slope. This drainage plan is required by the ECA Code to minimize disturbance of the steep slope and steep slope buffer, and will be further detailed and reviewed during review of the associated building permit.

Granting the variance to minimally intrude into the steep slope areas will not be injurious to safety, property, or improvements in the zone or vicinity.

- 5. The yard or setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining; and***

The applicant is requesting a variance for a reduced front yard of five feet; ten feet would be required under front yard averaging per SMC 23.44.014. The landscape plan (Sheet L1.1) shows extensive landscaping with native plants in the five-foot front yard and in the adjacent right-of-way. The landscape plan is an ECA code requirement and must be incorporated into the associated building permit in order for the project to be approved. (All work in the right-of-way requires SDOT approval.)

Other properties in the vicinity, including properties to the south, have development in or near the Lakeside Pl. NE right-of-way. Therefore, the proposed development will not result in materially detrimental effects on the character, design, and streetscape of the surrounding neighborhood.

- 6. The requested variance would be consistent with the spirit and purpose of the environmentally critical policies and regulations.***

The environmentally critical policies and regulations were created to protect ecological functions, prevent erosion and protect the public health, safety and welfare in landslide-prone (including steep slope) areas, and to permit landowners reasonable development and avoid development that causes injury land in a manner that causes injury to persons, property, public resources or the environment.

The applicant proposes to construct a single family residence on a site consisting almost entirely of steep slopes. The lot area is 7,450 sq. ft. and the steep slope area is 6,675 sq. ft. Disturbed areas will be re-vegetated with native vegetation. Variance relief is necessary to allow reasonable development of the property. The proposal would be consistent with the spirit and purpose of the environmentally critical policies and regulations.

- C. When an environmentally critical areas variance is authorized, the Director may attach conditions regarding the location, character and other features of a proposed development to carry out the spirit and purpose of this chapter.***

Conditions regarding drainage will be required. Please see discussion under SMC 25.09.180.E.3, below.

SMC 25.09.180.E. Steep Slope Area Variance.

- 2. If any buffer reduction or development in the critical area is authorized by a variance under subsection E1, it shall be the minimum to afford relief from the hardship and shall be in the following sequence of priority:***
 - a. reduce the yards and setbacks, to the extent reducing the yards or setbacks is not injurious to safety;***
 - b. reduce the steep slope area buffer;***
 - c. allow an intrusion into not more than thirty percent (30%) of the steep slope area.***

As discussed above, the applicant is requesting a reduced front yard; however, the reduction is not sufficient to keep the development entirely out of the steep slope and steep slope buffer since most of the site is designated as steep slope or steep slope buffer. Similarly, a buffer reduction alone would not obviate the need to disturb the steep slope area. Further, it is not possible to develop the site with a single family residence without disturbing the ECA. The total lot area is 7,540 sq. ft., of which 6,675 sq. ft. is designated as steep slope. The proposed residence includes a main floor with 1,465 sq. ft. of heated area and a 446 sq. ft. garage, a lower floor with 1,521 sq. ft. of heated area and 316 sq. ft. of unheated storage. There is also a 255 sq. ft. deck proposed. The intrusion into the steep slope, including all site disturbance (construction impact area, access and utilities) totals 29.7% of the total steep slope area, according to the plans. The proposed development follows the sequence of priority and does not create an intrusion of more than 30% of the steep slope area. The proposal therefore meets this criterion.

- 3. The Director may impose additional conditions on the location and other features of the proposed development as necessary to carry out the purpose of this chapter and mitigate the reduction or loss of the yard, setback, or steep slope area or buffer.***

The proposed residence is designed to be minimally intrusive into the ECA and buffer, with a total steep slope ECA disturbance of 29.7%. Disturbed areas will be required to be re-vegetated with native vegetation, as shown on Sheet L1.1, as an ECA code requirement. A non-disturbance area covenant is required by the ECA code and will be required for all areas not include in the 29.7% disturbance area. In addition, to prevent any further disturbance of the steep slope area and steep slope buffer, the drainage plan (dated July 15, 2011) including bio-retention planters and the requirement that any overflow from the planters will be required to be pumped to the culvert in Lakeside Pl. NE, must be incorporated into the associated building permit in order for the project to be consistent with the ECA code.

With these three code requirements (landscaping plan, non-disturbance covenant and drainage plan consistent with the July 15, 2011 plan) no additional mitigation or conditions are warranted.

ECA CODE REQUIREMENTS:

- The owner and/or responsible party shall provide a signed and notarized ECA Covenant to the Land Use Planner for recording. Addendum A of the covenant shall include a site plan with hatching to indicate the area identified as the non-disturbance area by the survey and install the permanent visible ECA markers established at the edge of the non-disturbance area ECA (in accordance with instructions contained in Director's Rule 4-2007).
- The landscape plan shown on Sheet L1.1 must be incorporated into the building permit set of plans.
- A drainage plan consistent with that shown in the MUP must be incorporated into the building permit set of plans.

DECISION – STEEP SLOPE AREAS VARIANCE:

GRANTED.

CONDITIONS OF VARIANCE APPROVAL:

None.

Signature: _____ (signature on file) Date: October 13, 2011
Molly Hurley, Senior Land Use Planner
Department of Planning and Development

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